

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 564 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 2. IC 32-29-7-4 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A sheriff shall
5 offer to sell and sell property on foreclosure in a manner that is
6 reasonably likely to bring the highest net proceeds from the sale after
7 deducting the expenses of the offer and sale.

8 (b) Upon prior petition of the debtor or any creditor involved in the
9 foreclosure proceedings, the court in its order of foreclosure shall order
10 the property sold by the sheriff through the services of an auctioneer
11 **requested by the petitioner and approved by the court** if:

12 (1) the court determines that a sale is economically feasible; or
13 (2) all the creditors in the proceedings agree to both that method
14 of sale and the compensation to be paid the auctioneer.

15 (c) ~~An~~ **The sheriff shall engage the auctioneer engaged by a sheriff**
16 ~~under this section not later than fourteen (14) calendar days after~~
17 **the date of the order entered by the court under subsection (b). The**
18 **auctioneer shall schedule the auction and** conduct the auctioneer's
19 activities as appropriate to bring the highest bid for the property on
20 foreclosure. The advertising conducted by the auctioneer is in addition
21 to any other notice required by law.

22 (d) The auctioneer's fee must be a reasonable amount stated in the
23 court's order. However, if the sale by use of an auctioneer has not been
24 agreed to by the creditors in the proceedings and the sale price is less
25 than the amount of the judgment and the costs and expenses necessary
26 to the satisfaction of the judgment, the auctioneer is entitled only to the
27 auctioneer's advertising expenses plus one hundred dollars (\$100). The
28 amount due the auctioneer on account of the auctioneer's expenses and
29 fee, if any, shall be paid as a cost of the sale from its proceeds before
30 the payment of any other payment from the sale."

31 Page 1, line 13, delete "not later than".

32 Page 1, delete line 14.

- 1 Page 1, line 15, delete "the court under subsection (b).".
- 2 Page 1, line 15, after "section" insert "**not later than fourteen (14)**
- 3 **calendar days after the date of the order entered by the court**
- 4 **under subsection (b).".**
- 5 Renumber all SECTIONS consecutively.
(Reference is to SB 564 as printed February 4, 2005.)

Senator CLARK